

### **REMARKS**

This Amendment and Response is in reply to the Office Action of April 6, 2009. A two (2) month Extension of Time is filed concurrently herewith. Therefore, the time period for response extends up to and includes September 6, 2009 (since September 6, 2009 falls on a Sunday and the following Monday (September 7, 2009) is a Federal Holiday, the time period for reply extends to Tuesday, September 8, 2009).

Claims 1 and 30 have been amended. Claims 18 and 19 have been cancelled without prejudice or disclaimer. The limitations of claim 18 and 19 have been incorporated into amended claims 1 and 30. Support for the amendments can be found at least in claim 18, claim 19, and page 9, lines 10 – 17 of the present application. Claims 1 – 17 and 20 – 34 remain pending in the present application.

### **§ 102 Rejections**

First in the subject Office Action, claims 1, 2, 3, 5, 6 – 9, 14, 15 and 30 – 34 were rejected under 35 U.S.C. 102(b) as being anticipated by Preston (GB 2,109,357). Applicants traverse the rejection.

Claims 1 and 30 recite, *inter alia*, a process comprising the step of subjecting the leach solution to solvent extraction using an organic solution of a carboxylic acid which is 2-methyl 2-ethyl heptanoic acid or a cationic exchange extractant having extraction characteristics similar to 2-methyl 2-ethyl heptanoic acid and a chelating aliphatic  $\alpha$ -hydroxyoxime. Preston does not disclose all elements of claim 1 or 30. More specifically, Preston discloses carboxylic acid extractants in combination with non-chelating oximes (*see* Abstract of Preston). Preston does not disclose a chelating aliphatic  $\alpha$ -hydroxyoxime in combination with carboxylic acid, 2-methyl 2-ethyl heptanoic acid, as recited in claims 1 and 30.

Claims 2, 3, 5, 6 – 9, 14, 15 and 34 depend directly or indirectly from claim 1 and claims 31 – 33 depend from claim 30. Therefore, claims 2, 3, 5, 6 – 9, 14, 15 and 31 – 34 are also allowable.

In view of the foregoing, Applicants request reconsideration and withdrawal of the rejection. Applicants do not otherwise concede the correctness of the rejection and reserve the right to make additional arguments as may be necessary.

Next in the Action, claims 1, 4 – 6, 14 – 17 and 28 – 34 were rejected under 35 U.S.C. 102(b) as being anticipated by Cheng et al. (WO 02/22896). Applicants traverse the rejection.

As noted above, claims 1 and 30 recite, *inter alia*, a process comprising the step of subjecting the leach solution to solvent extraction using an organic solution of a carboxylic acid which is 2-methyl 2-ethyl heptanoic acid or a cationic exchange extractant having extraction characteristics similar to 2-methyl 2-ethyl heptanoic acid and a chelating aliphatic  $\alpha$ -hydroxyoxime. Cheng et al. disclose non-chelating oximes and do not disclose a chelating aliphatic  $\alpha$ -hydroxyoxime. Furthermore, Cheng et al. do not disclose a chelating aliphatic  $\alpha$ -hydroxyoxime in combination with a carboxylic acid which is 2-methyl 2-ethyl heptanoic acid. Therefore, Cheng et al. do not anticipate independent claims 1 and/or 30 of the present application.

Claims 4 – 6 14 – 17, 28, 29 and 34 depend directly or indirectly from claim 1 and claims 31 – 33 depend from claim 30. Therefore, such dependent claims are also allowable.

In view of the foregoing, Applicants request reconsideration and withdrawal of the rejection. Applicants do not otherwise concede the correctness of the rejection and reserve the right to make additional arguments as may be necessary.

### **§ 103 Rejections**

At page four of the Action, claims 10–13 and 18 were rejected under 35 U.S.C. 103(a) as being obvious over Preston (GB 2,109,357) in view of Davis et al. (US 4,104,359). Applicants traverse the rejection.

As noted above, claim 1 has been amended to include the limitations of cancelled claim 18 and claims 10–13 depend from claim 1. The arguments and remarks provided above as applied to Preston for claim 1 are also fully relevant here and are incorporated by reference to avoid repetition. Davis et al. do not remedy the deficiencies of Preston. Davis et al. discloses

the use of hydroxylamine sulphates. Davis et al. do not disclose a chelating aliphatic  $\alpha$ -hydroxyoxime in combination with carboxylic acid, 2-methyl 2-ethyl heptanoic acid as provided in claim 1.

Claims 10-13 recite further limitations. Therefore, Preston and Davis et al. (alone or in combination) do not disclose or suggest the inventions recited in claims 10-13.

In view of the foregoing, Applicants request reconsideration and withdrawal of the rejection. Applicants do not otherwise concede the correctness of the rejections and reserve the right to make additional arguments as may be necessary.

At page 5 of the Action, claims 14-16 were rejected under 35 U.S.C. 103(a) as being obvious over Cheng et al. (WO 02/22896) in view of Mihaylov et al. (US 5,477,552). Applicants traverse the rejection.

Claims 14-16 depend from claim 1. Thus, the arguments and remarks provided above as applied to Cheng et al. for claim 1 are also fully relevant here and are incorporated by reference to avoid repetition. Mihaylov et al. do not remedy the deficiencies of Cheng et al. Mihaylov et al. disclose the use of organic soluble dithiophosphinic acid and salts thereof (*see* Abstract of Mihaylov et al.) and do not disclose a chelating aliphatic  $\alpha$ -hydroxyoxime in combination with carboxylic acid, 2-methyl 2-ethyl heptanoic acid as recited in claim 1.

Furthermore, the Office Action asserts that Mihaylov et al. teaches it is known to separate manganese from nickel and cobalt through pH adjustment. In solvent extraction processes, whether pH adjustment improves separation is reliant on the extractant(s) being used. Mihaylov et al. disclose the use of organic soluble dithiophosphinic acid and salts thereof. The results of Mihaylov et al. cannot be extrapolated to a general conclusion for all other extractants or extractant combination, such as those of the present invention.

Finally, claims 14-16 recite further limitations. Therefore, Cheng et al. and Mihaylov et al. (alone or in combination) do not disclose and/or suggest the inventions recited in claims 14-16.

In view of the foregoing, Applicants request reconsideration and withdrawal of the rejection. Applicants do not otherwise concede the correctness of the rejections and reserve the right to make additional arguments as may be necessary.

At page 6 of the Action, claims 18, 22–26 and 28 were rejected under 35 U.S.C. 103(a) as being obvious over Cheng et al. (WO 02/22896). Applicants traverse the rejection.

As noted above, Claim 1 has been amended to include the limitations of cancelled claim 18, while claims 22–26 and 28 depend directly or indirectly from claim 1. The arguments and remarks provided above as applied to Cheng et al. for claim 1 are also fully relevant here and are incorporated by reference to avoid repetition. Cheng et al. do not disclose a chelating aliphatic  $\alpha$ -hydroxyoxime in combination with a carboxylic acid which is 2-methyl 2-ethyl heptanoic acid.

Therefore, Cheng et al. neither discloses and/or suggests the invention recited in Applicants' claims 22-26 and 28.

In view of the foregoing, Applicants request reconsideration and withdrawal of the rejection. Applicants do not otherwise concede the correctness of the rejection and reserve the right to make additional arguments as may be necessary.

At page 7 of the Action, claims 20 and 21 were rejected under 35 U.S.C. 103(a) as being obvious over Cheng et al. (WO 02/22896) in view of Mihaylov et al. (US 5,477,552). Applicants traverse the rejection.

Claims 20 and 21 depend directly or indirectly from claim 1. The arguments and remarks provided above as applied to Cheng et al. in view of Mihaylov et al. for claims 14 – 16 are also fully relevant here and are incorporated by reference to avoid repetition. Mihaylov et al. do not remedy the deficiencies of Cheng et al. Mihaylov et al. discloses the use of organic soluble dithiophosphinic acid and salts thereof (Abstract of Mihaylov et al.). Mihaylov et al. do not disclose a chelating aliphatic  $\alpha$ -hydroxyoxime in combination with carboxylic acid, 2-methyl 2-ethyl heptanoic acid, of claim 1. Claims 20 and 21 recite further limitations.

Therefore, Cheng et al. and Mihaylov et al. (alone or in combination) do not disclose and/or suggest the invention of claims 20 and 21.

In view of the foregoing, Applicants request reconsideration and withdrawal of the rejections of claims 20 and 21. Applicants do not otherwise concede the correctness of the rejection and reserve the right to make additional arguments as may be necessary.

At page 8 of the Action, claim 27 was rejected under 35 U.S.C. 103(a) as being obvious over Cheng et al. (WO 02/22896) in view of Dreisinger et al. (WO 98/14623). Applicants traverse the rejection.

Claim 27 depends from claim 1. The arguments and remarks provided above as applied to Cheng et al. for claim 1 are also fully relevant here and are incorporated by reference to avoid repetition. Dreisinger et al. do not remedy the deficiencies of Cheng et al. Specifically, Dreisinger et al. do not disclose a chelating aliphatic  $\alpha$ -hydroxyoxime in combination with carboxylic acid, 2-methyl 2-ethyl heptanoic acid, of claim 1. Claim 27 recites additional limitations. Therefore, Cheng et al. and Dreisinger et al. (alone or in combination) do not disclose and/or suggest the invention recited in Applicants' claim 27.

In view of the foregoing, Applicants request reconsideration and withdrawal of the rejections under § 103. Applicants do not otherwise concede the correctness of the rejections and reserve the right to make additional arguments as may be necessary.

### **Supplemental IDS**

Applicants have enclosed herewith a Supplemental Information Disclosure Statement (IDS). The references in the IDS include:

- an article authored by one of the inventors of the present application. It is noted that the priority dates and the PCT filing date of the present application is prior to the publication date of the article; and
- references cited in a European search report of an unrelated case -- but which includes related subject matter.

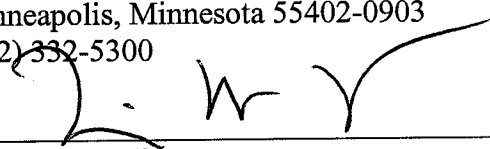
**Conclusion**

In view of the above amendments and remarks, Applicant respectfully requests a Notice of Allowance. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Respectfully submitted,

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Date: 8 September 2009

  
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